Our Docket No.: 42P6485C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	)	
	)	
Williams, Christopher D.	)	Examiner: Schnurr, John R.
	)	
Application No.: 10/627,085	)	Art Group: 2421
	)	
Filed: July 24, 2003	)	
	)	
For: Method and Apparatus for Channel	)	
Surfing Through Multiple Sources	)	
Based on User-Definable Preferences	)	

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APPEAL BRIEF
IN SUPPORT OF APPELLANT'S APPEAL
TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Sir:

Applicant (hereinafter "Appellant") hereby submits this Appeal Brief (hereinafter "Brief") in support of its appeal from a final decision by the Examiner, mailed September 25, 2009, in the above-referenced Application. Appellant respectfully requests consideration of this appeal by the Board of Patent Appeals and Interferences (hereinafter "Board") for allowance of the above-captioned patent application.

An oral hearing is not desired.

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I.   REAL PARTY IN INTEREST

The invention is assigned to Intel Corporation of 2200 Mission College Boulevard, Santa Clara, California 95052.

II.   RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision.

III.   STATUS OF THE CLAIMS

Claims 1-33 are currently pending in the above-referenced application. No claims have been allowed. All pending claims were rejected in the Final Office Action mailed September 25, 2009, and are the subject of this appeal. The amendments submitted after final rejection were not entered.

Claims 1-14 stand rejected under 35 U.S.C. §101.

Claims 1-4, 6, 10-18, 20-25 and 30-32 stand rejected under 35 U.S.C. §102(e).

Claims 1-33 stand rejected under 35 U.S.C. § 103.

IV.   STATUS OF AMENDMENTS

In response to the Final Office Action mailed September 25, 2009, rejecting claims 1-33, Appellant timely filed a Notice of Appeal on December 28, 2009.

A copy of all claims on appeal is attached hereto as Appendix A.

V.   <u>SUMMARY OF THE CLAIMED SUBJECT MATTER</u>

A recent trend in the electronics and computer industry is the convergence of computer systems and more traditional entertainment system components. Such convergence allows an increasingly broad range of information to be made available for system users over and above the broadcast television programming which has long been provided via conventional, televisions. Accompanying this convergence is the expansion of television programming transport media (e.g., the mechanism or "pipe" via which the programming is transported to the television). While analog broadcasts and analog cable were once the standard transport media for television programming, digital cable and digital satellite systems are becoming more and more commonplace. Additionally, other transport media, such as digital broadcasts, are starting to appear as options for viewers. *See Background of the Invention, page1, lines 12-21.*

However, one problem presented with convergence systems is the ease in which a user can choose from the large number of programming choices available. While a user may have had a choice of a dozen local broadcast channels or 30-40 cable channels a few years ago, the additional transport media currently being used has increased programming options into the hundreds, and will commonly be in the thousands in the not-too-distant future. The time required for the user to "surf" through all such channels from a variety of different sources becomes burdensome, thereby reducing the user's enjoyment of the system.. *See Background of the Invention, page 2, lines 8-15.*

Claim 1: The arguments of this brief are presented in the context only of Claim 1, however, examples of components of the other independent claims as shown in the drawings are pointed out for the Board's convenience. Turning to the first independent claim, to resolve the above problem and others, the present invention presents a method

of selecting an entertainment programming preferences list (*See Figure 4, 401, 402*) at an entertainment system (*See Figure 1*). Claim 1 sets forth the invention in terms of a method with operations as follows:

receiving a user identification for a current user (*See page 12, lines 5-12*);

identifying multiple stored preferences lists corresponding to the current user by searching a set of stored preferences lists, at least some of the preferences lists of the set of stored preferences lists corresponding to specific users, each of the preferences lists containing multiple entertainment programming channel identifiers (*See page 13, line 21 to page 14, line 3*);

providing a list display of the identified stored preferences lists corresponding to the current user (*page 14, lines 5-10, 20*);

selecting one of the identified stored preferences lists by receiving a user choice of one of the multiple identified preferences lists of the list display (*See page 14, line 20, page 17, line 10*); and

accessing the chosen preferences list (*See page 14, lines 22 et seq., page 17, line 10*).

Claim 15 is a is a means-plus-function claim and examples of possible means are provided in the specification as described above in the context of Claim 1.

Claim 20 is an apparatus claim with the following components:

a user interface to receive a user identification from the current user of the entertainment system (*See page 7, line 6 et seq., page 10, line 14*);

a preferences database to store a set of preferences lists, at least some of the preferences lists corresponding to specific users, and each of the preferences lists

containing multiple entertainment programming channel identifiers (*See page 11, line 20 et seq., page 12, lines 5-12, and Figure 4*); and

a channel selector to identify multiple stored preferences lists corresponding to the current user by searching the set of stored preferences lists, to select one of the identified multiple preferences lists by giving the user a choice of one of the multiple identified preferences lists using a list display of the identified stored preferences lists, and to access the chosen preferences list upon receiving a user choice from the list display (*See page 1ines 17-18*).

Claim 32 is directed to an entertainment system controller with many of the same components as Claim 20. The controller is indicated as item 104 of Figure 1, 200 of Figure 2 and 700 of Figure 7.

The invention allows each user of a television or converged system to maintain their own individual set of channel preference lists. These lists may be accessed simply be entering the user ID and then selecting from the user's own personal and personalized lists. Each list is easier to "surf" through than a comprehensive list for each user or than the typical group of 3 to 5 general lists that must serve all of the users.

VI.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-14 rejected under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention.

Claims 1-4, 6, 10-18, 20-25 and 30-32 rejected under 35 U.S.C. §102(e) as being anticipated by Ellis et al., U.S. Patent No. 7,185,355 ("Ellis").

The obviousness rejection is not contested separately from the anticipation rejection.

VII.   ARGUMENT

A.   Statutory Subject Matter

The Examiner has rejected claims 1-14 under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention. This is a new rejection presented for the first time as a final rejection, notwithstanding the opportunities presented for such a rejection with the Examiner's five previous Office actions.

The Examiner states that the a method must be tied to another statutory category or transform underlying subject matter.

With respect to Claim 1, Appellant respectfully submits that the method is tied to a data store and a display. A user interface and entertainment channels are implied. While this has traditionally sufficed for a method claim of this type, Appellant is willing to further amend the claim to overcome this rejection in the event that the prior art-based rejections can be overcome. Appellant offered amendments to overcome this rejection after final but the amendments were refused as adding new issues.

Claim 2-14 depend on Claim 1.

B.   Anticipation.

The Examiner has rejected claims 1-4, 6, 10-18, 20-25 and 30-32 under 35 U.S.C. §102(e) as being anticipated by Ellis et al., U.S. Patent No. 7,185,355 ("Ellis"). This is a longstanding rejection and the issues have been fully developed in the prosecution history.

In Ellis, there are profiles that are made up of preference attributes, preference levels, and preference scopes. Figure 7 shows an example of attributes and corresponding levels. Figure 9 shows that there can be multiple profiles identified with a

number. Figs. 12 and 16 shows that the profiles can be identified with user names and Fig. 28 shows that they can be protected with a PIN.

1. The Simple Single Profiles of Ellis Cannot Anticipate the Multiple Preferences Lists for One User as Claimed

The present invention shows a significant, non-obvious difference from the typical approach shown in Ellis. In the present invention, there can be multiple preferences lists for each user. Claim 1 recites, inter alia, "identifying multiple stored preferences lists corresponding to the current user… at least some of the preferences lists… corresponding to specific users." The current user in Claim 1 is established by "receiving a user identification for a current user."

In Ellis, on the contrary, a quick look at Fig. 16 reveals that different users have different profiles. Col. 9, lines 51-52 states, that when "a user desires to use the program guide, the user may activate an appropriate profile." Col. 10, lines 22-28 describe how a user can select his profile "Mike" and can also view "the profile names for other users." It is clear that Ellis contemplates only one profile per user.

The Examiner, in this rejection, is reading "receiving a user identification…" and "selecting one of the multiple identified preferences lists" onto the same operation in Ellis. Ellis shows only one operation and that is the selection of a profile. Such a reading is not sufficient for anticipation.

This reading also ignores the express limitation in the claim of "identifying multiple stored preferences lists corresponding to the current user." Ellis cannot perform this step because Ellis does not contemplate multiple profiles for one user.

This reading also ignores the connections between operations that is recited on the claim. The received user identification of Claim 1 is for a current user. The searching is

performed to identify lists for that current user. The selecting is from the lists that are identified. In the Ellis approach, these connections do not exist, there are simply profiles with names.

2.   **The Display Mode Options of Ellis Cannot Anticipate the Multiple Preferences Lists for One User as Claimed**

The Examiner has further pointed out how in Ellis, the screenshot diagram of Figure 18 is displayed as a result of a user selecting a particular profile such as those shown in Figure 16. The Examiner then suggests that the options 180, 182, 186 meet the claim limitation of "a set of stored preferences lists…corresponding to specific users… containing multiple… channel identifiers."

Considering Figure 18, it would appear that reference number 182 corresponds to display format options (Col. 12, line 19) and an example of the BY TIME display format option is provided in Figure 19 (Col. 12, lines 25-28, and lines 37-39). Reference number 186 corresponds to special features options (Col. 12, lines 20-21). "When the user selects the always-on mode option… all of the program listings display formats… are modified to display only those programs that satisfy the user's preferences." (Col. 12, lines 32-36) It would therefore seem as though there is a master list of programs that satisfy the user's preferences and that the display format options 182, 186 allow for different views of this list.

Ellis states that Figure 18 shows "a column of display format options 182 in a navigator menu 184." (Col. 12, lines 19-20) A "display format option" is not a list but a way to format a list for display.

Figure 19 shows that a "by-time favorites list 190 contains all programs that satisfy the preferences set forth in the current profile organized in a time-ordered list."

(Col. 12, lines 25-28) The specification refers to step 174 which describes the dedicated favorites display format as "e.g., a time ordered list of programs that meet the criteria set forth in the currently provided active profile." (Col. 12, lines 2-3) It is therefore clear that the "by time list" is not a list at all but a display format applied to the master list.

In other words, Ellis shows a single favorite channel list for a user. Portions of this one channel list can be displayed in different ways, by limiting the list to a particular category (sports, movies, etc.). The Examiner equates this to the multiple lists per user of the present invention.

The claims recite that the preferences lists of the present invention are multiple stored preferences lists (see paragraph 0038 of the application as published), not different views of a single list. While a user may establish a particular list for a category, this list may be different and contain items not on any other user list. This provides a significant user benefit as compared to a single list that can be limited to certain category views.

The Examiner has argued against the pending claims by proposing that Ellis actually has stored lists for each of the display format options. According to the Examiner, Figure 18 has a display screen that contains multiple lists of programming and when one list (By Time 182) is selected, it is presented in Figure 19. The Examiner suggests that it is inherent that any displayed list will be stored in order to support its display.

However, even if this is true, it is inconsistent with the claims. Claim 1 recites, inter alia, "searching a set of stored preferences lists" and "providing a list display of the identified stored preferences lists." So according to the claim, the "lists" displayed in Figure 18 must already be stored, then searched, then displayed, before the user selects one. However, there is nothing in Ellis to suggest this manner of operation.

First, the normal operation to be expected in Ellis would be that the display format options are generic and are presented to every user without any need for a search as recited in the claims.

Second, it would be normal to expect that when a display format is selected, then the formatting rules are applied to the master list. If anything is stored then it is stored after the display format is selected, not before as recited in the claims. Ellis certainly contains nothing to the contrary.

Third, while Ellis is silent on this issue, it does discuss a situation that might be similar. Ellis states that "when the user selects the always-on mode option... all of the program listings display formats... are modified..." "For example, selecting by-time option 182... results in a by-time favorites display of the type shown in FIG. 19." (Col. 12, lines 32-39) While not clear on the matter, this would suggest that lists are modified after a selection is made. The claims, on the other hand recite that the lists are stored even before the identifiers are displayed for selection.

In addition, the claimed lists are lists related to a particular user. Ellis states "Profile No. 1 belongs to a first user." (Col. 9, lines 31-32) "Profile No. 2 belongs to a second user." (Col. 9, line 37) "Profile No. 3 belongs to a third user." (Col. 9, line 42) "When a user desires to use the program guide, the user may activate an appropriate profile." (Col. 9, lines 51-52). "The user may select which profile to change or update when highlight region 124 is on a profile name 126 such as 'Mike.'" (Col. 10, lines 21-23)

In the Figure 19 display, the profile can be changed by selecting the arrows around the indicated profile 194 "Mike." There is nothing to suggest that BY-TIME is a unique list just for the Mike profile.

Claim 1, by contrast recites, "providing a list display of the identified stored preferences lists corresponding to the current user." The Examiner has failed to identify more than one list for Mike. Instead Mike has a choice of different display options.

Ellis confirms this by describing a BY-TIME list as "e.g., a time ordered list of programs that meet the criteria set forth in the currently provided active profile." (Col. 12, lines 2-3) So the one "Mike" profile is applied as criteria and then the list is ordered by time.

In contrast to Ellis, Claim 1 has multiple preferences lists for one user that are [1] already stored, [2] then searched, [3] then displayed, [4] before the user selects one. While the Examiner claims that Ellis shows searching for lists, this is in direct contradiction to the presence of the SEARCH display format option of Fig. 18. Otherwise Ellis does not suggest searching, only restricting. This must also be implied by the Examiner, but it is simply not in Ellis.

Ellis presents a fundamentally different approach in which the display is changed by restriction depending upon the display format options. Claim 1 provides for multiple lists that are pre-stored and can be selected by user command.

For these reasons, Claim 1 is believed to traverse the rejections. The remaining claims are believed to be allowable on the same grounds, *inter alia.*
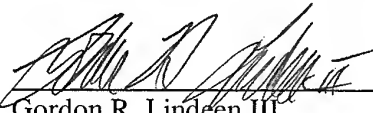
VIII. CONCLUSION

Appellant respectfully submits that all appealed claims in this application are patentable and were improperly rejected by the Examiner during prosecution before the United States Patent and Trademark Office. Appellant respectfully requests that the Board of Patent Appeals and Interferences overrule the Examiner and direct allowance of the rejected claims.

This Brief is submitted with a check for $500.00 to cover the appeal fee for one other than a small entity as specified in 37 C.F.R. §1.17(c). Please charge any shortages and credit any overpayments to our Deposit Account No. 02-2666.

Respectfully submitted,

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IX.   APPENDIX OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))

1.   A method of choosing a preferences list comprising:

receiving a user identification for a current user;

identifying multiple stored preferences lists corresponding to the current user by searching a set of stored preferences lists, at least some of the preferences lists of the set of stored preferences lists corresponding to specific users, each of the preferences lists containing multiple entertainment programming channel identifiers;

providing a list display of the identified stored preferences lists corresponding to the current user;

selecting one of the identified stored preferences lists by receiving a user choice of one of the multiple identified preferences lists of the list display; and

accessing the chosen preferences list.

2.   The method of Claim 1, further comprising:

receiving a category identification from the current user;

wherein identifying comprises searching the set of stored preferences lists also for the identified category; and

wherein selecting one of the identified preferences lists includes the identified preferences lists for the identified category.

3.   The method of Claim 1, wherein identifying comprises searching the set of stored preferences lists also for generic preferences lists not corresponding to a specific user, and wherein selecting one of the identified preferences lists includes the identified generic preferences lists.

4.   The method of Claim 1, wherein the stored preferences lists each correspond to at least one of a user and a category.

5.   The method of Claim 1, wherein the entertainment programming identifiers identify particular communication paths for entertainment programming from any one of a wide variety of different transport media.

6.   The method of Claim 1, further comprising:

receiving a new channel request; and

determining a channel from the chosen preferences list to provide in response to the new channel request.

7.   The method of Claim 6, further comprising tuning a component of an entertainment system to the determined channel once the next channel is determined by sending a message to a component controller indicating an appropriate device within the entertainment system that is a source for the determined channel, as well as an identifier of the determined channel.

8.   The method of Claim 7, wherein the chosen preferences list includes information that identifies a component within the entertainment system to tune to the determined channel.

9.   The method of Claim 6, further comprising accessing an electronic programming guide (EPG) database to identify a component for tuning to the determined channel.

10.   The method of Claim 1, further comprising:

receiving an update request from a user; and

updating the chosen preferences list in accordance with a received user input.

11.   The method of Claim 10, wherein the update request includes an indication of the particular preferences list that is to be updated.

12.   The method of Claim 11, wherein the indication of the particular preferences list comprises a user selection from a list display.

13.   The method of Claim 10, wherein if a reorder channel listings input is received, updating comprises changing the order of the channels in the list in accordance with the reorder channel listings input.

14.   The method of Claim 10, further comprising verifying that the identified user is authorized to access the lists and if the user is not authorized, then not updating the preferences list.

15.   A machine-readable tangible medium having stored thereon a series of instructions which, when executed by a processor, cause the processor to perform operations comprising:

receiving a user identification for a current user;

identifying multiple stored preferences lists corresponding to the current user by searching a set of stored preferences lists, at least some of the preferences lists of the set of stored preferences lists corresponding to specific users, each of the preferences lists containing multiple entertainment programming channel identifiers;

providing a list display of the identified stored preferences lists corresponding to the current user;

selecting one of the identified stored preferences lists by receiving a user choice of one of the multiple identified preferences lists of the list display; and

accessing the chosen preferences list.

16.   The medium of Claim 15, wherein the series of instructions further comprise instructions which, when executed by the processor, cause the processor to perform further operations comprising :

receiving a category identification from the current user;

wherein the instructions for identifying comprise instructions for searching the set of stored preferences lists also for the identified category; and

wherein the instructions for selecting one of the identified preferences lists includes the identified preferences lists for the identified category.

17.   The medium of Claim 15, wherein the instructions for identifying comprise instructions for searching the set of stored preferences lists also for generic preferences lists not corresponding to a specific user, and wherein the instructions for selecting one of the identified preferences lists includes the identified generic preferences lists.

18.   The medium of Claim 15, wherein the preferences lists each correspond to at least one of a user and a category.

19.   The medium of Claim 15, wherein the chosen preferences list includes information that identifies a component within an entertainment system to tune to the determined channel.

20.   An apparatus comprising:

a user interface to receive a user identification from the current user of the entertainment system;

a preferences database to store a set of preferences lists, at least some of the preferences lists corresponding to specific users, and each of the preferences lists containing multiple entertainment programming channel identifiers; and

a channel selector to identify multiple stored preferences lists corresponding to the current user by searching the set of stored preferences lists, to select one of the identified multiple preferences lists by giving the user a choice of one of the multiple

identified preferences lists using a list display of the identified stored preferences lists, and to access the chosen preferences list upon receiving a user choice from the list display.

21. The apparatus of claim 20, wherein the user interface is further to receive a category identification, and wherein the channel selector is further to search the set of stored preferences lists for the identified category and to give the user a choice including a preferences list for the identified category.

22. The apparatus of claim 21, wherein the user interface further comprises a remote control device with at least one of a particular category button, channel selection keys corresponding to a particular category, and an alphanumeric input.

23. The apparatus of Claim 20, wherein the channel selector is further to search the set of stored preferences lists also for generic preferences lists not corresponding to a specific user, and to give the user a choice including the generic preferences lists.

24. The apparatus of claim 20, wherein the user interface is further to receive a new channel request, and the channel selector is further to determine the next channel, based on the information within the accessed preferences list.

25. The apparatus of claim 24, further comprising a channel selection controller to maintain a record of the current channel being provided to the user; and wherein the channel selector is further to compare the current channel being provided to the chosen preferences list, and if the current channel being provided is in the chosen preferences list, then to determine that the channel in the preferences list subsequent to the current channel being provided is the next channel.

26.   The apparatus of claim 24, further comprising a component controller and wherein the channel selection controller is further to send a message to the component controller indicating a device within an entertainment system that is a source for the determined channel, as well as an identifier of the determined channel.

27.   The apparatus of claim 26, wherein the component controller is to send a signal to the indicated device of the entertainment system to tune to and provide the determined channel.

28.   The apparatus of claim 20, wherein the preferences lists include information that identifies components within an entertainment system to tune to channels.

29.   The apparatus of claim 24, further comprising an electronic programming guide (EPG) database to identify a component for tuning to the determined channel.

30.   The apparatus of claim 20, wherein the user interface is further to receive an update request from the user, the apparatus further comprising a preferences control to retrieve the chosen preferences list, to display the chosen preferences list to the user and to update the chosen preferences list in accordance with a user input.

31.   The apparatus of claim 30, wherein the channel selection controller is further to verify that the current user is authorized to access the chosen preferences list and to not update the chosen preferences list if the current user is not authorized.

32.   An entertainment system controller comprising:

a remote control, operable by a user;

a user interface to receive a user identification from the remote control;

a preferences database to store a set of stored preferences lists, at least some of the stored preferences lists corresponding to specific users, and each of the stored preferences lists containing multiple entertainment programming channel identifiers; and

a channel selector to identify multiple stored preferences lists by searching the set of stored preferences lists for the current user of the entertainment system, to select one of the identified multiple stored preferences lists by giving the user a choice of one of the multiple identified preferences lists using a list display of the identified stored preferences lists, and to access the chosen preferences list upon receiving a user choice from the list display; and

a component controller to send a signal to a device of the entertainment system to tune the device to a channel from the accessed preferences list.

33.   The controller of Claim 32, further comprising an electronic programming guide (EPG) database to identify the component for tuning to the channel.

X.   <u>EVIDENCE APPENDIX</u>

None.

XI.   <u>RELATED PROCEEDINGS APPENDIX</u>

None.